26

G.R.S. IX—5]

Previous references.
P.P. 16-20 Ss 28+29
P.P. 6-19 & 25-30, 40, +56

1929-20
P.P.

File No. 6-19

Serial Nos. 424, 425, 426, 427, 428 + 429.

Later references.
P.P. 60-23 & 1+2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Secs. (6)

Part B for June 1923.

SUBJECT

Civil Suit filed by Balia against the Deputy Commissioner, Mysore for the recovery of Rs. Rs 1,215-4-6 etc. being the price of rice supplied by his father Krishnappa

Ss 429 To 1) The Comptroller, Govt.
2) The Deputy Commissioner, Mysore

Order No G 9013-14/P.P. dt 23-5-923
An advance of Rs 50/- is sanctioned subject to adjustment in due course.

Printed on the Multigraph.

K.G. Mahadevappa
1/6/23

(1

G. R. S. III-2]

General and Revenue Secretariat. | P P File No. 6 of 1969.

Serial No.	
424	From 1339 The Dy. Comd. Mysore Distt No. O.C. 837/22-23 dy. 2.11.1922. With refree to Sl. 89 reports that in connection with the Civil suit filed by Balia against the Dy. Comd. for the recovery of Rs. 1,215-4-6 te being the price of rice supplied by his father and that the Public Prosecutor has been requested to defend the case and the case stands posted to the 6th inst. 1) Subd with refree for orders. Flag Y/ No orders appear necessary at this stage 4/11. Chajjed 6/11 2) will the witness be examined for? What is the meaning of the "Defence of rice" being made a pair? be 3) For favour of a note 7/11 Attached Gen'l. with Compliments 4) Secs. 80 & 81 of the C.P. code a suit may lie against a public officers for anything done by him in his official capacity
Legis [illegible]	

D. 2500/p

NOTE.—Contn. sheet.

R. S. III-2]

General and Revenue Secretariat.

P.P. File No. 6 2500 P of 1914.

Serial No.

In the present case the cause of action arose out of the commandeering of rice by Mr. Chotzianna as Dy Comm. It is therefore doubtful if the D. C can be made a party to the suit & not Mr. Chotzianna as Dy Comm.

As per standing order on this subject this Office should refer the case for the order of Govt — on receipt of Summons & the Reference must be accompanied by a draft of the written statement (vide clause (5) of para 296 of manual of General circulars & standing orders, p 80)

(Please see Sec 80 of the Code of Civil Procedure 1911 The Govt Advocate may be consulted under Sec Cent Pl Branch)

Mr refers merely to 2 months notice Bm 18/4

16/4 Apr 16/4 6)

Bm 17/4

Chiefly?

8) Please consult note whether the Govt ought to be required that

NOTE—Contn. sheet.

G. R. S. III-21

13

339

General and Revenue Secretariat. | P.P File No. 6 of 1914.

Serial No.

draft
accept the annexed & same should be returned to us for approval. Pse. please call upon D.C. to do so. His report is urgent

Ker
19/4

9) See Para 296 (5) of the manual of Genl Circulars & S-Os:

Call for draft written Statement, Extension of time being taken from the Court

Bm
20/4

20/4

10) Draft put up.

Ker 21/4 11) Issue

21/4

425 To Hie Dy Court, Nuppare
No 3333 dy 21. 11. 1922

With reference to Sl 424 supra, requested to forward for the approval of Govt a draft of the written statement to be filed as required by para 296 (5) of the manual of Genl. Circulars & Standing orders and that an extension of time being taken from the Court if necessary

NOTE—Contn. sheet

(48

G. R. S. III-2]

General and Revenue Secretariat.

P.P File No. 6. of 1919. 1253

Serial No. 426

From

The Dy. Comd, Tuyapore Distt.

No. O.C. 837/22-23 dy 5.12.22.

With refree to Sl. 425 supra, forwards a copy of letter dy 28th Nov 22 recd from the Public Prosecutor, Tuyapore division stating that the statement was filed by him on 14th Nov 22 under the circumstances explained in his letter and forwards also a copy of the written statement filed in Court by the Public Prosecutor

2) Subd with references to paras 8 & 9 of the Rules Supra.

Y. MM
8/12

Chesney

Bm
9/12

3) We will not trouble about the point that a suit against "the Secretary, Y&M" is wrong as a suit against Govt

3783
11.12.22

and Members

Bm
11/12

The cause of action here based upon a contract, it is not the practice to plead that the case is not maintainable as it is technically a case against Govt.

Bm
11/12

NOTE—Contn. sheet.

(5

G. R. S. III-2]

General and Revenue Secretariat.

P.P. File No. 6 of 1929.

DEWAN'S OFFICE.
Recd. on DEC 12 1982
Reg. No. 3493

Serial No.

14) Subd for perusal
Dewan
Bm
12/12

15) Sch. In all case of the Sch. defence statement shd be affirmed by the head of the Dept Concerned
by
Hole

16) U.S. B 19/12/22

17) P.P. Refer to Para 296 (5) of the manual of G.C.&S.G. & submit a revised Standing order to the above effect Bm 19/12

18) Subd with a draft.
In this connection it may be kindly decided that under the existing rules all such statements requires the approval of Govt. before they are filed.
Dr 20/12 21/12

19) Draft as pr order is subd.
In the present case, the standing order requiring previous approval of Govt

P.P

E

NOTE—Contn. sheet.

(6

G. R. S. III-2]

General and Revenue Secretariat. | File No. 6 of 1923

Serial No.

has been departed from, evidently on the ground that a defence statement on practically the same lines had been submitted & approved by them previously.

~~Has this to be a case~~

DEWAN'S OFFICE.
Received on DEC 22 1922
Reg. No. 3795

20/12.

20) Dewan ... Submitted ... received ... 21/12

21) Secretary 21/12

427 To The Heads of Depts & Dy Comrs of Distts
" Registrar Chief Court
" Govt Advocate in Mysore
" Public Prosecutors of Bangalore, Mysore & Shimoga

No. G. 276-335/PP dy 2.1.1923.

Directs that in all cases the defence statements to be filed should be approved by the Head of the Dept in which the officer concerned is serving before it is filed in Court and that the Head of the Dept should always consult the Govt Advocate and take his opinion before filing the statement.

NOTE—Contn. sheet.

4897

(7)

General and Revenue Secretariat. | P.P. File No. 6 of 1919.

Serial No.	
428	From The Dy Comr Mysore, No OC. 837/22-23 Rev Dt 15/5/23 Recd 21/5 Forwarding a copy of a letter received from the Public Prosecutor, Mysore, in connection with a suit filed by Baliah & Ganjam for the recovery of the cost of rice supplied by his late father and requesting sanction to an advance of Rs 50/- being placed at the disposal of the Public Prosecutor Submitted with a draft sanction 21/5 Ch. Secy. 21/5 21/5 21/5
429	Do To the Comptroller The D.C. Mysore

NOTE—Contn. sheet.

P.P. 6-19. 424 (9

No. O.S.837/22-23

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT,

Dated, Mysore, 2nd November 1922.

From

P.F. Bowring, Esquire,

Deputy Commissioner, Mysore District.

To

K. Matthan, Esquire, B.A.,

Chief *Secretary to the Government of His Highness the Maharaja of Mysore, Bangalore.*

SIR,

Flag Y. Adverting to correspondence ending with your memo No.G.5798 dated the 11th September 20 intimating that in connection with the revision petition of Krishnappa of Ganjam before the Chief Court in the matter of making Mr. T. Chokkanna a party to the suit filed by him in the 1st Munsiff's Court, Mysore for the recovery of the cost of rice supplied by him in November 18 at enhanced rate, I have the honor to state that the Chief Court declined in their order No.Civil revision petition No.7 of 20-21 dated the 24th January 21 to interfere with the Munsiff's order and dismissed the revision petition with costs.

Krishnappa is now dead and his son Balia minor by next friend uncle Gopala Krishnia has filed a suit against the Deputy Commissioner in O.S.No.6 of 22-23 on the file of the District Judge, Mysore. A copy of the plaint received from the Court is herewith forwarded for the information of the Government.

Flag Z. As already intimated in your letter No.G.5702/P.P.6-19-29 dated the 4th September 1919, I have requested the Public Prosecutor, Mysore to take necessary steps to defend the case on behalf of Government.

The case stands posted to the 6th instant.

I have the honor to be, Sir,
Your most obedient servant,

Deputy Commissioner,
Mysore District

IMMEDIATE.

GB. 1339

The Deputy Commissioner,
Mysore District.

To

The Secretary to the Government
of Mysore, Bangalore.

Dated } 2nd November 1922
Despatched }

Received

General No. Ge. 837 / 22-23
No.

Enclosure No. one.

(10.

Copy of the plaint.

In the Court of the District Judge, Mysore

O.S.6/22-23

Krishnappa since deceased by his son Balia, minor by next friend Gopalakrishnia

Vs.

Deputy Commissioner, Mysore.

The plaintiff begs to state as follows:-

1. That the plaintiff's father was a commission Agent dealing to a considerable extent in rice which he was purchasing from his constituents and selling to wholesale purchasers for commission.

2. On 26th November 18 the plaintiffs father had loaded one railway Waggon and was loading another with 156 bags of rice ~~xxxxxxxxxxx~~ altogether at Seringapatam Railway Station for consignment to one Yele Siddalinga Setty of Bangalore City in pursance of an agreement to supply 500 bags of rice for commission at 2% on the price. The said Siddalinga Setty had secured certificate for waggons from the office of Food Controller.

3. The Deputy Commissioner of Mysore Mr.Chokkanna desired that the plaintiffs father should make over to the Palace the said 156 bags on the same terms as had been entered with between the plaintiffs father and Yele Siddalinga Setty as the same was wanted for Palace purposes. The Plaintiffs father acceeded to the said officers wishes hoping to be able to obtain the approval of Siddalinga Setty to the same.

4. The plaintiffs father was asked by the said Officer to go to Mysore with a patty or list of the details of the amount due to him in respect of the said rice. The plaintiffs father accordingly produced a list or patty showing the actual prices at which he had purchasedfrom his constitutents and the commission due to him.

5. In spite of repeated demands made by the plaintiff by letter and registered notices dated 30-1-19, 27-3-19 the plaintiff's father did not receive payment of the amount due to him. But the Deputy Commissioner of Fyzabad by his letter dated 26th June 1919 stated in reply to the plaintiff's registered letter dated 27th May 1919 that the suit rice had been recommended for the offered amount at the then controlled price at Rs.10/- per palla.

6. The plaintiff's father was finally entitled to the right as aforesaid under the Defence of India Rules as framed thereunder or under any other law and no notice or intimation is necessary to be served on the defendant as the case may be prescribed by the said rules or otherwise.

7. Ultimately on 12th June 1919 the plaintiff's father paid under protest the sum of Rs.6120/- without prejudice to his rights to get more. The plaintiff's father issued a notice for the balance on 12th June 19. He died about 2 years ago and plaintiff his only unidivided son is entitled to get the same.

8. The plaintiff is entitled to Rs.4024-4-6 minus Rs.3120/ or Rs.904-4-6 with interest at 1/- per rupee or Rs.4024-4-6 from 26th November 19 to 12th June 19 and Rs.904-4-6 from 12th June 1919 till date of suit Rs.11/- i.e. Rs.15 5-4- in all.

9. The cause of action for the said suit arose on 30-11-18 when the rice was purchased by the Government.

10. The plaintiff's father was given the necessary notices under section 80 C.P.C. on 30th January 1919, 27-5-1919 and 10th June 1919.

11. The plaintiff prays for a decree against the defendant for Rs.1215-4-6 current interest from 26th November 1919 and all costs of the suit.

"C o p y"

for Deputy Commissioner,

G. R. S. VI—G/32]

SUBJECT.....

Diary No. of letter replied to

General and Revenue Secretariat
( )
, *the* 191 .

Section PP
File No. 6-9
Serial No. 425

No. 3333 | P.P.
21/11/22

Date of issue 21/11/22

Signed by W. C. A. V. A.

The Dy Comr, Dujeore

Sir,

With ref- to your letter No O.C. 837/22-23 on the 2nd instant, regarding the claim of Balia of Ganjam (Unicorn) towards the cost of rice supplied by his father, I am directed to request you to kindly forward for the approval of Govt

over.

a draft of the written statement
to be filed and served as
required by para 296(5) of
the Manual of Genl Circulars
and Standing Orders, an
extension of time being
taken from this Court, if necessary.

List of enclosures.

Copied by

Examined by

P.P. 6-9-426
191 24365

From CB. 1753. 13

The Deputy Commissioner,
Mysore District.

To

Chief
The Secretary to the Government
of Mysore, Bangalore

Dated 5th December 1922

Despatched

Received 8 DEC 1922

General No. C.C.837/22-23.Rev.

No.

Enclosure No. 2

Forwards a copy of the written statement filed by the Public Prosecutor, in the case filed by Baliah of Gangam towards the cost of rice supplied by his father.

No. C.C.857/22-23. &c. &c.

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT,

Dated, Mysore, 5th December 1922.

From

P. T. [illegible], Esq.,
Deputy Commissioner, Mysore District.

To

K. Rattan, Esq., B.A.,
Chief Secretary to the Government of His Highness the Maharaja of Mysore, Bangalore.

SIR,

With reference to your letter No.C.S.C./PP. 6-19-425 dated the 21st November 1922, requesting me to forward for the approval of Government a draft of the written statement to be filed in the District Judge's Court, Mysore, in the case [illegible] filed by Bilian of Sanjan (minor), to recover the cost of rice supplied by his father, I have the honor to forward herewith a copy of letter No.105 dated the 28th November 1922 received from the Public Prosecutor, Mysore Division, stating that the statement was filed by him on 14th November

45.

1922, under the circumstances, explained in his letter.

A copy of the written statement filed Court by the Public Prosecutor is herewith forwarded for the information of Government

I have the honor to be,

Sir,

Your most obedient servant,

Deputy Commissioner,

Mysore District.

a

(16

Letter No.166 dated 28th November 1922, from the Public Prosecutor, Mysore Division, to the Deputy Commissioner, Mysore District.

I have the honor to acknowledge receipt of your letter No.837/22-23 dated 25th November 1922. The suit filed by Ganjam Baliah, as you are aware, was originally filed by Baliah's father Krishnappa before the First Munsiff, Mysore, and was registered in that Court as O.S. No.4560/19-20. On our defence having been filed in that court, both the Court of the 1st instance and the appellate court ~~resolved~~ ruled, that the suit was one that had to be filed in the District Judge's Court and not in a Munsiff's Court, under Section 229 of the Mysore Land Revenue Code. Accordingly the Plaintiff has filed the suit in the District Judge's Court. Our defence being in all material particulars the same as the one filed before the 1st Munsiff, the same defence with slight wordy alterations, has been filed before the District

In the court of the district judge
Mysore.

OS - no. 6 of 1922-23.

plaintiff		defendant
Balayya, minor by next friend, Gopalakrishna.	vs.	Deputy Commissioner Mysore.

Written statement filed by defendant.

I. That the present defendant or his predecessor in office mr. T. Chokkanna had no notice of any agreement between plaintiff's deceased father & yale Siddalinga setty. Neither deputy commissioner had neither notice nor intimation of priority certificates having been secured by Siddalinga setty from the office of the food controller. no priority certificates were produced before mr. T-C when the 156 pallas of rice were seized.

II Allegations in paras 2 & 3 of the plaint are not true. It was an act of grace on the part of mr. T-C that the father of plaintiff was not prosecuted for smuggling & that mr. T-C intended to pay for the rice at the then notified wholesale maximum price.

III. mr. T-C did not undertake to pay plaintiff's father at any pattee rate & there was no necessity for any such understanding

IV If remittance was delayed, it was due more

to the non-appearance of plaintiff's son Charles.

V The plaintiff's father had cause to congratulate himself for his not having been prosecuted under the defence of India Regulation & for his having been paid the full price even if such rice had been sold in market etc.

VI. The plaintiff has no cause of action against the present defendant as the claim is based upon an alleged contract between his father & Mr. T.C. Mr. T.C even as deputy commissioner & agent of Government had no authority to fix a rate higher than that fixed by Government. Even on the assumption that such a higher rate was fixed by Mr. T.C plaintiff was to look to Mr. T.C for such excess payment.

VII The amount paid by the defendant is all that plaintiff is entitled to get from government.

VIII For reasons aforesaid and many others left reserved to be stated at the time of trial the suit is liable to be dismissed with costs.

Sd/- [illegible]

Advocate for the Defendant

28.11.22

S.O.G.

20

G.R..S VI G 34]

SUBJECT..

Diary No. of letter replied to.....

General and Revenue Secretariat

, *the* 192

Date of issue 4/1/1923 F

Signed by Mr. A V Ramanaiah

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

v translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Section P.P.

File No. 6-69

Serial No. 427

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Para 5 of G.O. No 4668-79/ m. 137 M dt 25th September 888. Directing that the draft of the written statements which the Officers sued proposed to file in Suits against them, against their proceedings as Govt Officers should be submitted to Govt for approval before they are filed.

Order Thereon No. S. 276-335/PP 32 2nd January

In modification of the order read above Govt are pleased to direct that in all cases the defence statement

to be filed should be
approved by the Head of
the Dept in which the Officer
concerned is serving ~~before~~ before it is filed in Court
~~it is sent up for Govt attorney~~ Counsel
The Head of the Dept should also
Chief Secy before they (the Govt.
21/12/65.

To

The Heads of Depts & Dy Comms
of Dists.
The Public Prosecutors of
[illegible] Imperial & Shimoga
The Regr Chief Court
The Govt Pleaders.

List of enclosures.

Copied by

Examined by

WD 1883—GPB—1,000,00—21-12-21

4 349

191

22

From P. P. 6-19-428

The Deputy Commissioner,
Mysore District.

To

Chief
The Secretary to the Government
of Mysore, Bangalore.

Dated 15th May 1923.

Despatched

Received 20 MAY 1923

General No. C.C.837/22-23.Rev

No.

Enclosure No.

Submits a copy of letter received from the Public Prosecutor Mysore Division, in connection with a suit filed by Baliah of Ganjam for the recovery of the cost of rice supplied by his late father.

No. [illegible]

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT,

Dated, Mysore, [illegible] *192*

From

P. P

[illegible],
Assistant Commissioner in charge
Deputy Commissioner, Mysore District.

To

[illegible],
Chief Secretary to the Government of His Highness
the Maharaja of Mysore, Bangalore.

SIR,

In continuation of this office letter No. [illegible] dated the 24th December 1931 forwarding [illegible] of the Petty State suit filed in the District Court [illegible] for the recovery of the cost of rice supplied by his late father [illegible] November [illegible], I am to state that [illegible] copy of letter dated [illegible] the Public Treasury [illegible] circumstances explained [illegible] Government may kindly be obtained [illegible] of Rs.50/- at the disposal of the [illegible] for travelling and other expenses of witnesses to be summoned in connection with the suit subject to adjustment in due course.

I have the honor to be,
Sir,
Your most obedient servant,

M. H. Balasubramanya

Assistant Commissioner
in charge of the Deputy
Commissioner's Office, Mysore.

(24

Letter No. 381 dated 9th May 1923, from the Public Prosecutor Mysore Division, Mysore, to the Deputy Commissioner, Mysore District

I have the honor to inform you that in the marginally noted case Mr. T. Chokkanna, who was the then Deputy Commissioner has to be summoned as our witness, to speak to the circumstances which the rice bags were taken possession of by him. Further it is necessary that all records showing the operation of the Defence of India Regulation, along with Circulars received from the office of Food Controller, regarding the maximum and minimum prices of food stuffs during the period in question should also be produced. All records available in your office which have reference with suit transaction, may also be sent over to my office. A clerk conversant with the particulars contained in the Food Records may kindly be directed to go over to my office on any Saturday or Sunday morning, so that I may instruct him to depose in a correct manner before Court when his examination would become necessary, during the production of the aforesaid documents. Mr. T. Chokkanna lives in Bangalore. He has to be paid his travelling expenses and batta for the day he stops here. As per rules he is entitled to 1st Class Railway fare and Rs.2/- batta. I shall thank you if you will place in my hands sufficient funds to enable me to summon Mr. T. Chokkanna to appear before Court on 4-6-1923, on which date, his examination is likely to take place. Courts reopen on 14-5-1923. Witness Memo has to be filed as early as possible. So it is necessary that sufficient money is placed in my hands immediately.

"Copy".

Kemmaiappa 14/5

For Deputy Commissioner,
Mysore District.

G.R.S. 28]

P.P. File No. 6-19
Serial No. 429

*Diary No. of letter replied to*_____

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 191 .

READ

Letter No. C. 827/22-23
Rec. on the 15th May 1923
from the Dy Comr, Mysore,
requesting sanction
to an advance of
ORDER THEREON. ~~No.~~ Rs 50/- being
placed at the disposal
of the Public Prosecutor,
Mysore for travelling
and other expenses of
witnesses to be Summoned

over.

Date of issue 23/5/23.

Signed by Sri N. A. Sreenivasa

SUBJECT.

GPB—50,000—1-12-12

in connection with the
suit filed by Baliah of
Tanjam for the recovery
of the cost of rice supplied
by his late father.

Under the [illegible]
the advance
of Rs 50/- is sanctioned
subject to adjustment
in due course.

Chief Secy
22/5/53

To

The Comptroller
The Ry Comr, Jaffna